

BILL NO. S-76-09-22

SPECIAL ORDINANCE NO. S-164-76

AN ORDINANCE approving a contract with Kenneth Niemeyer, for construction of a sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the contract dated August 30, 1976, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Kenneth Niemeyer, for:

Part of the Northwest Quarter (1/4) of Section 32, Township 30 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Beginning at an existing "bulkhead" end of an existing Eight (8) inch diameter sanitary sewer, located 82 feet more or less, West, and 40 feet more or less, South, of the centerline intersections of Tillman Road and Gathings Drive; thence running Westerly 60+ L.F. to a proposed manhole to be located 42 feet South of the centerline of said Tillman Road; thence continuing Westerly and parallel to the said Tillman Road centerline 1048+/- L.F., to a point located 42 feet South and 200 feet East of the centerline intersections of Tillman Road and Hessen Cassel Road, said point being the place of ending of this described sewer line. Said sanitary sewer shall be Eight (8) inches in diameter.

of which the developer shall pay the entire cost and expense of the construction of said sewer, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

APPROVED AS TO FORM
AND LEGALITY,


Councilman


CITY ATTORNEY

Read the first time in full and on motion by _____, seconded by _____ Burns, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: 9-14-76

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by _____ Burns, seconded by _____ Hinga, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>8</u>			<u>1</u>	
BURNS	<u>X</u>				
HINGA	<u>X</u>				
HUNTER	<u>X</u>				
MOSES	<u>X</u>				
NUCKOLS	<u>X</u>				
SCHMIDT, D.	<u>X</u>				
SCHMIDT, V.	<u>X</u>				
STIER				<u>X</u>	
TALARICO	<u>X</u>				

DATE: 9-28-76

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)

ORDINANCE (RESOLUTION) No. 8-164-76 on the 28th day of Sept, 1976.

ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of Sept, 1976, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 1st day of October, 1976, at the hour of 8:00 o'clock _____ M., E.S.T.

Robert Elmhurst
MAYOR

Bill No. S-76-09-22

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance
approving a contract with Kenneth Niemeyer, for construction of sanitary
sewer

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance 88 PASS.

Paul M. Burns - Chairman

John Nuckols - Vice-Chairman

William T. Hinga

Fredrick R. Hunter

Samuel J. Talarico

DATE 9-28-76 CONSIDERED BY
CHARLES W. WESTERMAN, CITY CLERK

8/30/76

AGREEMENT FOR SANITARY SEWER

THIS AGREEMENT, made this 30 day of August, 1976 by and between KENNETH NIEMEYER, hereinafter referred to as Developer; and the CITY OF FORT WAYNE, an Indiana Municipal Corporation, hereinafter referred to as City,

WITNESSETH:

WHEREAS, the developer desires to construct a sanitary sewer described as follows:

Part of the Northwest Quarter (¼) of Section 32, Township 30 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Beginning at an existing "bulkhead" end of an existing Eight (8) inch diameter sanitary sewer, located 82 feet more or less, West, and 40 feet more or less, South, of the centerline intersections of Tillman Road and Gathings Drive; thence running Westerly 60+ L.F. to a proposed manhole to be located 42 feet South of the centerline of said Tillman Road; thence continuing Westerly and parallel to the said Tillman Road centerline 1048+/- L.F., to a point located 42 feet South and 200 feet East of the centerline intersections of Tillman Road and Hessen Cassel Road, said point being the place of ending of this described sewer line. Said sanitary sewer shall be Eight (8) inches in diameter.

All in accordance with plans, specifications, and profiles heretofore submitted to the City and now on file in the office of the Chief Engineer of the Sewer Utilities of the City, which plans, specifications, and profiles are by reference incorporated herein and made a part hereof, which sewer shall not only serve land in which the Developer has an interest, but also adjoining land areas.

WHEREAS, the cost of construction of said sewer is represented to be \$24,138.50 composed of \$21,000.00 for construction costs and \$3,138.50 for design, grade construction staking, inspection, as-built drawings, and contract documents.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. Construction of Sewer. The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the City, under private contract to be let within Sixty (60) days after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be non-compliance herewith. Said sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said sewer shall become the property of City by and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by City, and all further maintenance thereafter shall be borne by the City.

2. Cost of Construction. The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including design, construction grade staking, inspection, as-built drawings and contract document preparation fees, and to hold the City harmless from any liability for claims connected therewith.

3. Area of Developer. Said sewer when accepted by the City will initially serve the following described real estate of the Developer:

A part of the Northwest Quarter($\frac{1}{4}$) of Section 32, Township 30 North, Range 13 East, Allen County, Indiana, more particularly described as follows:

Lots numbered 59 thru 63 in Trier Ridge Park Addition, Section II, as recorded in Plat Book 31, Pages 22-23; and Lots numbered 112 thru 116 in Trier Ridge Park Addition, Section III, as recorded in Plat Book 32, Pages 8-9; both plats as recorded in the Allen County Recorder's Office, Fort Wayne, Indiana.

(The above described real estate consists of Ten(10) residential platted lots.) Also tract A & B of Exhibit A is included within area of developpe

As the Developer will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this agreement against the above described real estate for the construction of said sewer, by the present or future owners of said real estate, except only as such standard tap-in, inspection fees, and monthly sewage treatment charges, as are customarily charged by the City for connections to City sewer mains and treatment of sewage therefrom.

4. Charge Against Excess Area. Said sewer when constructed will also serve the area included in Exhibit "A".

In the event any present or future owner of said described excess area shall at any time within fifteen(15) years after the date of this contract desire to use said sewer or any extension thereof, whether by direct tap or through the extension or connection of lateral or local lines to service such land, City, though its duly constituted authorities, before permitting such use, shall require by contract or assessment, as may be appropriate, that such owner or owners of said excess area pay to City in addition to the cost of standard tap-in and inspection fees, the sum of \$0.0549377 per square foot for the area served by each such connection and use, which represents the pro rata share of the cost of the extension of the City sewer to said excess area.

The amount so collected by the City shall be paid by City within Sixty(60) days of the receipt thereof by City to Developer.

A tap-in charge for the Paulding Road Pumping Station, where applicable, must be paid to the City. This area connection charge is in addition to the local charge as set forth in this agreement, and represents the cost expended by City for the Paulding Road Pumping Station.

5. Bond. This contract is subject to Developer furnishing a satisfactory performance and guaranty bond, guaranteeing said sewer against defects for a period of One(1) year from the date of final acceptance of said sewer by the City.

6. Limitation On Use. Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer any water run-off caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. Councilmanic Approval. It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

8. Waiver of Right to Remonstrate Against Annexation. The Owner, for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce City to execute and ratify this contract, said Owner, for himself, his successors and assigns, agrees by this contract to vest in City the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

Owner further agrees that any deeds, contracts, or other instruments of conveyance made by the Owner, its successors or assigns transferring or conveying any interest or title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the Owner, his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Owner further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of City who connect into the sewer constructed hereunder, shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer.

DEVELOPER:

Kenneth Niemeyer
Kenneth Niemeyer

CITY OF FORT WAYNE

Robert E. Armstrong
Robert E. Armstrong, Mayor

BOARD OF PUBLIC WORKS

H. P. Wehrenberg, Chairman

E. H. LaMar
E. H. LaMar, Member

Max G. Scott
Max G. Scott, Member

APPROVED AS TO FORM & LEGALITY

Philip R. Boller
Clerk of City Attorney
Prepared by Philip R. Boller

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said county and state, personally appeared Kenneth Niemeyer, and acknowledged said instrument to be his voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal, this 11th day of August, 1976.

Helen I. Woodring
Helen I. Woodring, Notary Public

My Commission Expires 2/26/80.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert E. Armstrong, Henry P. Wehrenberg, Ethel H. LaMar, Max G. Scott, and Ursula Miller, known to me to be the Mayor, the Chairman and Members of the Board of Public Works, and the Clerk of said Board of the City of Fort Wayne, Indiana, respectively, and the voluntary act and deed of said City.

WITNESS my hand and notarial seal this 30 day of August, 1976

Anne J. Fox
Notary Public

My Commission expires

3/6/80

For: Ken Niemeyer
 By: Walter J. David
 Date: May 26, 1976

EXHIBIT "A" (continued)
 Computation of Local Assessment Charges
 (Area Tap-in Fees Due City To Be Determined)

Tillman Road Sanitary
 Sewer Extension.

Sheet 5 of 6

RESERVE THE PROPERTY OF CITY BY AND CITY SHALL ACCEPT SEWAGE THEREFROM.

<u>Excess Area</u>	<u>Area in Sq. Ft.</u>	<u>Local Sewer Extension Cost per Sq. Ft.</u>	<u>Local Sewer Total Ext. Cost</u>
Tract "A"	27,225.0	\$ 0.05493770	\$ 1495.68
Tract "B"	57,775.0	0.05493770	3174.03
Tract "C"	132,000.0	0.05493770	7251.78
Tract "D"	56,954.0	0.05493770	3128.92
Tract "E"	64,600.0	0.05493770	3548.98
	<u>338,554.0</u>		<u>\$ 18,599.38</u>
 <u>Trier Ridge Park- Lots</u>			
Lot # 59	9,272.0	\$ 0.05493770	\$ 509.38
Lot # 60	9,937.5	"	545.94
Lot # 61	9,937.5	"	545.94
Lot # 62	9,937.5	"	545.94
Lot # 63	9,937.5	"	545.94
Lot # 112	10,861.0	"	596.68
Lot # 113	10,600.0	"	582.34
Lot # 114	9,937.5	"	545.94
Lot # 115	9,937.5	"	545.94
Lot # 116	10,467.5	0.05493770	575.06
	<u>100,825.5</u>		<u>\$ 5,539.12</u>
	<u>439,379.5</u>		<u>\$ 24,138.50</u>

Note: Final tabulation, this 7th
 day of July, 1976.

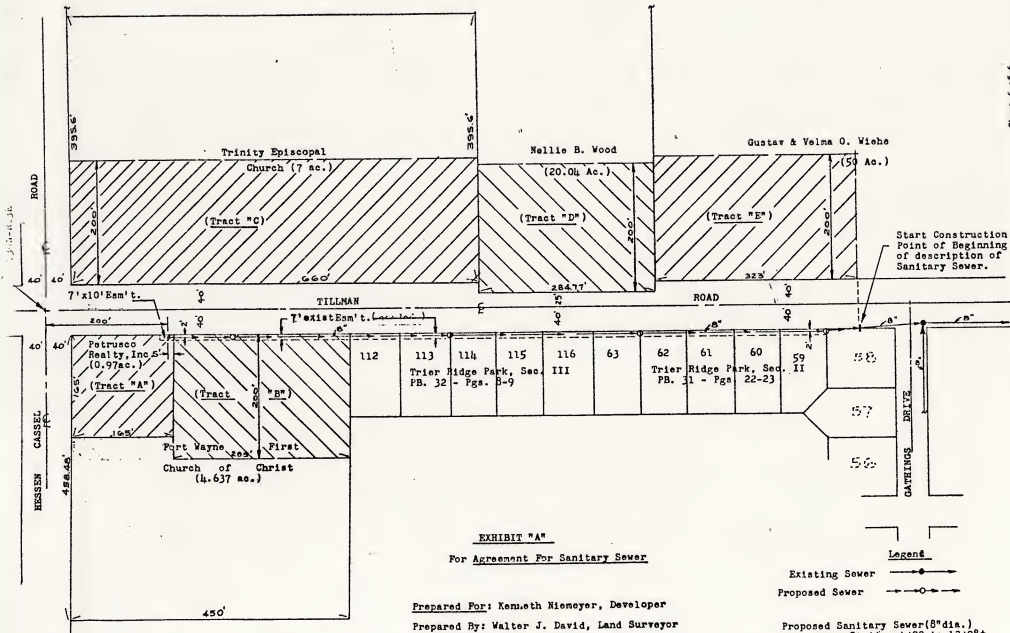


EXHIBIT "A"

For Agreement For Sanitary Sewer

Prepared For: Kenneth Niemyer, Developer

Prepared By: Walter J. David, Land Surveyor

Date: May 24, 1976

TITLE OF ORDINANCE SPECIAL ORDINANCE - Sewer Extension Agreement, Trier Ridge Park

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE Sewer Extension Agreement with Kenneth Niemeyer provides for
his construction of sanitary sewers to serve Trier Ridge Park, II and III and other
adjacent area of the developer.

All construction, engineering and inspection costs will be paid by the developer.

EFFECT OF PASSAGE Sewer service outside City at no cost to City. Sewer revenue
to the Utility.

EFFECT OF NON-PASSAGE Failure to provide service where possible.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) No City monies involved.

ASSIGNED TO COMMITTEE

City Utilities